FIRE SUPPRESSION COSTS

2001 BIENNIUM ESTIMATE

A Report Prepared for the

Legislative Finance Committee

By

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PURPOSE AND SCOPE

The purpose of this report is to provide an overview of the financial impact of the 2000 fire season on the state budget and the Department of Natural Resources and Conservation (DNRC). More specifically, the report will discuss who has financial responsibility for fires in the State of Montana, the federal government's role in providing financial assistance, DNRC's financial position, their need for a supplemental appropriation in the 2001 legislative session, and a look at fire funding alternatives.

FIRE SUPPRESSION – WHO PAYS THE BILLS AND HOW

Quantifying fire suppression costs is a complex issue. In a normal year, it can take several months beyond the fire season to settle the bills related to the fires. Also, with any given fire, determining "costs" involves many factors such as size, where the fire started (protection responsibility), whether it is nature or human caused, cost share agreements, and FEMA funding. In addition, bills from many fires are still being gathered in the field. These factors come together in combination and can result in fluctuations of computed numbers. Thus, computing fire costs is a long and difficult process.

RESPONSIBILITY

The State of Montana has what amounts to a three tiered system of responsibility when responding to fires. Of the approximately 93 million acres in Montana, about 45.3 million acres are under county control, 40 million are under federal control, and 5.1 million are under DNRC's control. The remaining 2.6 million acres are cities, waterways, and other areas that are not subject to wildland fires.

When a fire starts, there are a number of things to consider. First, where a fire starts is an important determining factor in determining who pays for it. The State of Montana is divided up among federal, state and county agencies that are responsible for fighting fires that start in their areas of control. Some of the factors considered in dividing up the state include ownership and location of resources. Because of these factors, the State of Montana may be a first responder to a fire for which the Forest Service has financial responsibility.

Second, in addition to overall responsibility, and long before a fire begins, the agencies have reached agreements upon some things that will ultimately affect a given agency's cost. The federal and state agencies involved with fire fighting efforts have decided in advance who will initially pay for supplies needed in the suppression efforts. For example, providers of portable restroom facilities, meals, communication equipment, aircraft, and human resources are determined in advance of a fire. Many of these costs will have to be paid on an immediate and on-going basis.

Because of factors such as extreme fire behavior, a fire can quickly progress beyond boundaries of responsibility. When this happens, the complexity of the fire increases as does determining who is responsible for fire suppression costs. If a state responsibility fire travels to federal responsibility land, total cost to each party will be apportioned long after the fire is out. Negotiations often take place between federal and state agencies to determine who will ultimately be responsible for what portion of a fire. A final decision of cost apportionment may be made based upon surface area of land burned, a negotiated split of 50/50, 60/40, or another method acceptable to the parties involved.

The following table shows total estimated fire costs from the summer of 2000 (fiscal 2001), based on who is responsible for paying the cost of the fires. The table is divided in to two parts: 1) costs for which federal agencies are responsible; and 2) costs for which Montana is responsible. Please be advised that these are very preliminary numbers and could change significantly prior to and during the legislative session. They are provided to give the committee a general idea of the magnitude of the costs and the potential general fund impact. Also note that the table does not include any fire costs from fiscal 2000, or any estimate of further fall costs or the cost of any spring 2001 fires. (These costs are shown in the table detailing potential supplemental appropriations in that section of the report.)

Table 1
State of Montana
Breakdown of Payments on Total Fire Cost
2000 Fire Season
In Millions

Total Fire Costs	$107.9	
Less: Forest Service/BLM Costs	(58.7)	
Total Fire Costs for Which Montana is Responsible		$49.2

As shown, total costs are estimated to be in excess of $107 million. Of this total, approximately $49.2 million are costs that would have been borne by the state and would ordinarily have been paid from the state general fund.

SOURCES OF FUNDING

Generally, there are two sources of funding to pay Montana's fire costs: 1) DNRC's operating budget (later reimbursed in a supplemental appropriation); and 2) the Governor's emergency fund (if a disaster or emergency has been declared). In this fire season, a third source of revenue became available: Federal Emergency Management Agency (FEMA) funds.

DNRC must pay: 1) all costs prior to the Governor's emergency declaration and FEMA declarations; and 2) all costs after both declaration are ended.

The Governor's emergency fund can be charged for all costs incurred from the time of the declaration, including costs deemed ineligible for FEMA reimbursement. While how much can be paid from the emergency fund is important when looking at DNRC's cash flow position and the amount of the supplemental (both discussed later), both the fund and the DNRC obligation are paid from the general fund and reduce the fund balance.

FEMA has agreed to pay almost all state costs incurred between the time of its declaration and its end. The following table shows the approximate breakdown of fire cost between the state's general fund and FEMA.

Table 2
State of Montana
Breakdown of Total Fire Cost by Responsibility
2000 Fire Season

	In Millions	
General Fund	$14.2	
FEMA	35.0	
Total Fire Costs for Which Montana is Responsible		$49.2

Please note two things:

1) This is not the supplemental request. For example, it does not include issues of timing, other fire costs, or fiscal 2000 costs.

2) The numbers shown are very preliminary. DNRC is still receiving invoices from the field, so costs will continue to change. In addition, FEMA reimbursement may fluctuate as costs are verified and the fire season comes to a close.

FEMA – IMPACT ON FIRE SUPPRESSION FUNDING

State and local entities are expected to cover their normal costs of fire suppression. However, when conditions exist that exceed the capabilities of these state and local resources, FEMA assistance may be requested. FEMA has agreed to pay a large portion of the state's fire suppression costs this fire season.

There are three ways that FEMA can provide assistance to a state during a fire emergency – Fire Suppression Assistance Program; Presidentially declared emergency; and Presidentially declared major disaster. The state is currently receiving assistance under the Fire Suppression Assistance Program and a Presidentially declared major disaster.

FIRE SUPPRESSION ASSISTANCE PROGRAM AND REIMBURSABLE COSTS

The Fire Suppression Assistance Program is provided by Congress as a grant program to states to fund fire fighting efforts for any fire on private or publicly owned forest or grasslands upon which a wildfire is threatening life and/or improved property. Areas where communities and individual building meets grassland or forested areas are referred to as the wildland/urban interface. Structures and dwellings existing among fire fuels have a high probability to be lost in a fire. While programs exist to help mitigate damage that arises from the wildland/urban interface most of these are done only after a Presidentially declared major disaster. In contrast, Fire Suppression Assistance Program funding is done as the fire is occurring – in "real time."

When authorized by a declaration, the Fire Suppression Assistance Program provides reimbursement of actual and eligible fire suppression costs to a state in a single monetary grant. Examples of eligible costs include personnel, camps and meals provided to fire fighters and support personnel, equipment use, replacement value of equipment lost, mobilization and demobilization, and administrative costs associated with the grant. Ineligible costs are those that would not ordinarily be paid by the state. For example, reforesting efforts or mutual aid response or assistance provided without a current cooperative fire agreement that authorizes payment would not be considered eligible. Other ineligible costs are restoration of facilities, timber salvage, erosion control, or, with the exception of the mobilization and demobilization costs, costs incurred outside of the incident period.

SHARE OF COSTS ASSUMED BY FEMA

Because a FEMA fire suppression grant is designed to be an assistance program, a cost share platform is in place where the suppression grant covers 70 percent of eligible costs, and the state must cover 30 percent of eligible costs. A request for assistance is warranted when a state determines its capabilities may be overwhelmed by a single fire or fire complex that may become a major disaster affecting life and property.

Although 70 percent of eligible costs is the standard amount of a FEMA fire suppression grant, when certain conditions exist, that amount can be increased to 100 percent. However, the state must first meet an annual floor cost. The floor cost consists of five percent of a five-year average fiscal year cost for fire suppression. The five-year average uses the previous seven fiscal years with the high and low thrown out and the remaining years averaged. Then, after the State's out-of-pocket expenses exceed twice the average fiscal year cost together with the floor cost, the FEMA share is 100 percent of the cost of all costs for fire suppression assistance

In most cases a written request is sent to the proper FEMA region headquarters where advisors will assess the situation. In Montana's case, a verbal confirmation was given for the Bucksnort fire at the Canyon Ferry complex – the Cave Gulch Fire was added shortly thereafter. Although most fires are declared eligible for FEMA fire suppression grants on a fire by fire basis, Montana's fire situation was so bad that FEMA began to declare zones in which all fires within the zone qualified for FEMA fire suppression money. FEMA had established 5 FEMA fire declaration zone complexes and one individual fire within the State of Montana during the 2000 fire season. Although all of these declarations have been closed, if conditions warrant, more zones or individual fire declarations could be established. For a more detailed look at FEMA declarations including starting and ending dates, see appendix 2.

The starting date and time of the declaration is important. FEMA only provides fire suppression money during the event. Thus, fires that occur before the declaration and after the event is over are deemed ineligible for FEMA fire suppression funding. FEMA funding ends when "…the last fire is controlled or when the threat from existing fires within the complex has been reduced to the extent that there is no longer a threat of a major disaster, whichever is earlier". Several factors are taken into consideration when making a recommendation to FEMA for ending a declaration. Among these is lack of threat to lives and/or improved property, availability of state and local resources, fire conditions, or number of fires. The zone as a whole will be examined before a recommendation to remove a declaration is made.

Once Fire Suppression Assistance Program money is provided by FEMA, grant recipients are required to develop a hazard mitigation plan as directed by Section 409 of the Stafford Act. The mitigation plan might include projects such as brush clearing in potentially dangerous areas. States are typically required to provide their own funding to complete this plan. Despite the lack of funding, FEMA offers technical support and advice to states that receive fire suppression funding. Because the President declared Montana a disaster area, the state is eligible for financial assistance with the hazard mitigation plan

PRESIDENT'S DISASTER DECLARATION - IMPACT ON MONTANA

On August 29, 2000, the Governor wrote a letter to President Clinton requesting a disaster declaration for the State of Montana. In the letter, the Governor described the extent of the damage that was occurring as a result of the drought and fires. He described direct and indirect impacts including lost structures, lost businesses, decreases in commerce, agriculture losses, and severe stress on the people of Montana.

The President's declaration of disaster is significant to Montana in several ways. First, it allows a Governor's emergency and/or disaster declaration to continue without the need for legislative action. This is important because it allows affected agencies to access the emergency statutory appropriation. In addition, the Governor is authorized to spend an additional $500,000 from the state's general fund to help provide individual assistance to people affected by the fires. Authority is provided in 10-3-312 (3) MCA. See appendix 1 for a more detailed description of the declarations of disaster by the Governor and the President.

The presidential declaration allows Montana the ability to access a couple of different sources of federal funding:

1) **Individual Assistance**. For fiscal year 2000, each family or individual may receive up to $13,000 through the Individual and Family Grant Program. Although the maximum is $13,000, most families receive in the $2,000 to $4,000 range. The amounts are indexed for inflation and are intentionally small because they are designed to be a supplement to insurance or other forms of disaster relief. Services available range from grants and loans to counseling services. For example, people who have had homes damaged by fires will qualify for temporary housing assistance including home repair assistance, rental assistance, mortgage assistance, lodging reimbursement, and referral to other housing programs.

2) **Hazard Mitigation.** States under a major disaster declaration qualify for funding to develop sustained measures to reduce or eliminate long-term risk to people and property from natural hazards and their effects. Eligible mitigation measures under the Hazard Mitigation Grant Program include acquisition or relocation of properties located in high hazard areas and protecting existing structures against wildfire.

States under a President's declaration of disaster may also be eligible for a third source of funding known as public assistance funding. Public assistance funding assists eligible public sector agencies with funding the repair, restoration, reconstruction, or replacement of a public facility or infrastructure that is damaged or destroyed by a disaster. Montana did not experience any significant damage to public infrastructure. Thus, Montana did not qualify for this type of funding.

Recently, six Western governors met to discuss fire suppression issues in the west. Their intention is to lobby Congress for more than $1.6 billion to help the West recover from this fire season. According to media accounts of the meeting, the President has already proposed spending $1.6 million to help states in the West. His plan calls for replenishing the fire suppression fund with half of the $1.6 with the remainder going to projects that would reduce wildfire risks in forested areas, restoring burned lands, and protecting watersheds affected by fires. The article neither stated whether the spending plan had been introduced to Congress. Since the status of money earmarked for Montana is unknown, it would be premature to factor this money into any cost calculations.

LOCAL ENTITIES

At one point there were 11,003 men and women being paid to fight Montana's fires. These figures included DNRC employees, National Guard personnel, and men and women from around the world. However, a very important part of the fire fighting effort came from volunteers throughout the state.

Because the volunteers used valuable resources to assist the state in fighting fires, the Governor agreed to reimburse them for reasonable costs incurred while fighting these fires. State and local officials met to discuss the conditions under which local and volunteer groups could be paid for their services. Among the conditions are requests for mutual aid, county or city declared emergency or disaster, and records must be auditable.

Once the other conditions were met, local entities were required to hire volunteers as employees and pay them from their own funds. Next, a two mil emergency levy would be assessed by the city or county in which the emergency has been declared. To recoup costs, the city or county would then submit a bill to Military Affairs, DES Division who then included these costs in documents submitted to FEMA for reimbursement. The eligible reimbursement would include incident costs above initial attack, mutual aid requested, and the 2-mil levy. Fire fighters were paid for all regular and overtime for time spent directly engaged in fire suppression activities.

DNRC -- FINANCIAL POSITION

In Montana, the legislature does not directly budget for wildfire costs. In the first year of a biennium, DNRC temporarily pays for fire costs out of the Forestry Division's operating budget. The agency then requests a supplemental appropriation near the end of the first year of the biennium. In the second year of the biennium, the agency continues its fire suppression efforts on its general fund budget. The legislature restores the necessary funding in a supplemental appropriation during the legislative session. Therefore, available authority and cash flow until that supplemental can be secured is crucial to DNRC's financial position.

In gauging the financial position of DNRC, it is important to note that there is a difference between initial authority and necessary cash flow, and the source from which the actual bill will eventually be paid. There are two primary factors in this distinction: 1) The timing of payments and receipt of funds; and 2) accounting procedures for initially paying and then allocating costs.

TYPES OF WILDFIRE COSTS AND IMPACT OF TIMING

There are three basic types of wildfire costs. Each kind of cost affects the general fund in a different way. The following provide a description of the costs, timing, and affect on the general fund:

1) **Suppression costs that must be paid immediately.** These costs include payroll to department personnel assigned to fire fighting and payments to local vendors providing necessary provisions. For example, on large complex fires, meals are supplied by a federal contract. The Forest Service will bill DNRC after the fire season for the state's portion of these costs. However, if a fire erupts that does not require the services of the contract caterer, local vendors must be paid for providing meals to firefighters. Portable bathroom facilities, land leases for a base camp, and vehicle repairs and maintenance are other examples.

Because the agency is required to pay many of these local vendors on a short-term basis, these costs are accumulated quickly and can be tracked on SABHRS. As of October 2, 2000 DNRC has accumulated and paid just over $20.8 million on bills of this nature for the fiscal 2001 fire season.

2) **Costs for which DNRC will not be responsible until after the end of the fire season.** The largest, most significant of these bills is termed the "Forest Service bill." The Forest Service bill contains many components. Some costs are paid up front and some will be billed later. Like DNRC, the federal government agrees to pay some costs as an immediate need arises. If a fire occurs on state responsibility land, DNRC will ultimately be responsible for the cost even if the Forest Service pays the initial bill.

In addition to bills paid immediately, the Forest Service has a vast supply network from which DNRC obtains vital fire fighting tools, equipment, and supplies. The immediate nature of fighting fires coupled with an increased demand on a national scale can create shortages of protective equipment and clothing. Thus, the Forest Service has developed a supply system for these necessary items. For example, if the State of Montana needs an air-tanker, it is requested through the Forest Service. Depending upon availability and level of priority, Montana will either receive the shipment quickly or will be placed on a waiting list. In either case, the cost will not have to be paid until the "Forest Service" bill is received.

Although it is termed as the forest service bill, there is often a myriad of entities involved. For example, if the State of Georgia sends a team of fire fighters, the State of Washington sends a couple of bulldozers, and the Bureau of Land Management (BLM) sends a helicopter to assist in the fire fighting efforts, the state does not pay these bills individually. Rather, each entity involved submits a bill to the Forest Service. Acting as a clearinghouse for fire suppression costs, the Forest Service consolidates, reconciles, and audits the final bill that is ultimately sent to Montana. Once DNRC receives its bill, a team of workers will verify that all costs are correct and accurate.

3) **Net cost**. While DNRC faces immediate cash needs and the cost of fires seems ominous, the net effect of fighting fires can be much less than the total cost. Similar to the Forest Service bill, DNRC submits a bill of federal responsible costs of fighting wildland fires on federal responsible land. Accounting practices do not allow DNRC to "offset" bills with the Forest Service. Thus, DNRC must submit their bill to the Forest Service and wait for payment. Although the state is required to pay this bill rather quickly, payment is not received from the Forest Service for at least a year. Once payment is received, the money the state receives from the Forest Service is deposited directly to the general fund. The bill swapping ritual will be concluded sometime after the first of the year.

ACCOUNTING PROCEDURES

When looking at how much the fires are costing DNRC, it seems natural to look to the remaining balance of the Forestry Division's general fund appropriation. DNRC is unable to show a meaningful available balance of this appropriation. This fire season has been particularly brisk. Personnel are working hard to get what bills they do have into the SABHRS system. Unfortunately, the agency doesn't have the resources to separate expenditures by source of authority. If they were able to do that, all pre-FEMA declaration fires would be recorded against the Forestry appropriation, emergency fund fires against the emergency fund, and FEMA fire expenditures against FEMA funding.

Rather, DNRC's regular policy is to run all fire bills through their Forestry Division. After the invoices are into the Forestry Division's account, a journal voucher is used to transfer these expenditures against authority from the Governor's emergency fund or FEMA advances. Once all bills have been received and accounted for, expenses that should be spent against Forestry's authority will be transferred back through the journal voucher process. Consequently, the agency's position must be examined as a whole rather than looking specifically at the Forestry Division.

Since DNRC initially uses the Forestry Division's authority to pay fire bills as they accumulate, there must be a sufficient amount of authority in the Forestry Division's general fund to pay these bills until they are reallocated to the appropriate fund. For example, as the fire season progresses, those expenses that should properly be charged against FEMA will be moved in to that fund by a journal voucher. This year, there is not enough authority to cover bills as they come into the department. Therefore, DNRC must look elsewhere to find authority to meet their obligations.

AVAILABLE SOURCES OF AUTHORITY

There are several sources of authority that DNRC will be able to use until the session.

Internal Department

DNRC is looking within the department in an effort to utilize any available funding sources. DNRC has estimated that just under $1 million would be available to use for spending authority in the Forestry Division. The department has already processed documents that moved $2 million of authority from the Water Resources Division to the Forestry Division. They will also look to the Centralized Services Division, Conservation and Resource Development Division, Reserved Water Rights Compact Commission, and the State Project Hydro Earnings Fund to utilize any other available funding sources within the department.

Governor's Emergency Fund

When the Governor declares an emergency or disaster, affected state agencies have an additional source of funding. 10-3-312 MCA provides a $12 million statutory biennial appropriation to be used by state agencies in the event of an emergency or disaster. Because it is a biennial appropriation and because many agencies can be affected by an emergency or disaster, DNRC does not have exclusive access to all of the emergency authority in the event of a fire emergency or disaster.

Table 3 on the following page shows that DNRC is not the only agency utilizing the emergency funding source. The Departments of Justice, Fish, Wildlife, and Parks, Military Affairs, and Public Health and Human Services have all utilized this source of authority for emergency purposes. The Rainbow Family gathering near Jackson, an explosion in Fairview, and a Fergus County tornado are some examples of non-fire uses of the emergency appropriation.

As shown, $11.5 million has been appropriated from the emergency fund for various emergencies in the 2001 biennium, leaving a balance of $491,212. DNRC has established a total of $6.2 million of the fund for use on various fire suppression efforts. Of that total, $1.1 was established for the Musselshell County Fire last fire season, $2 million was established for the Canyon Ferry Complex, and $3.1 million has been used for the statewide fire emergency. In addition, the Department of Military Affairs has also established a $4.8 million appropriation for fire suppression efforts this season. (Please note that almost all of these costs appear to be FEMA reimbursable, and will later be reversed and charged to that appropriation. However, other costs will likely continue to be charged to the emergency fund, including FEMA ineligible costs and those costs incurred fighting fires after the FEMA declaration ends.)

Table 3
General Fund Emergency Statutory Appropriation (10-3-312(1), MCA)
Appropriations and Expenditures
2001 Biennium

SABHRS as of September 18, 2000

Agency	Appropriation Number	Appropriation Name	Appropriated	2001 Biennium Spent	Remaining
Justice	190S1	Disaster/Rainbow	$69,548	$44,873	$24,675
FWP	385S1	DMA Emerg. Assistance	29,286	3,729	25,557
DNRC	555S1	Musselshell County Fire	1,100,000	1,100,000	0
	555S2	Canyon Ferry Complex	2,000,000	2,000,000	0
	555S3	Statewide Fire Emergency	3,100,000	3,100,000	0
Military Affairs	850SB	EO 10-99 Eastern MT Fires	9,000	8,402	598
	850SE	EO 11-99 Fergus Tornado	307,600	306,184	1,416
	850SF	EO 17-99 Outlook Fire	15,000	3,535	11,465
	850SG	EO 8-00 Fairview Explosion	7,500	6,581	919
	850SH	EO 9-00 Libby Rally	2,600	2,476	124
	850SI	EO 13-00 Rainbow Event	37,600	16,891	20,709
	850SJ	EO 17-00 Canyon Ferry Fires	4,816,300	1,105,120	3,711,180
					0
PHHS	875S4	CDCPB Exec. Order 15-00	14,354	14,343	11
Total			$11,508,788	$7,712,136	$3,796,652

Summary

Total GF emergency statutory appropriation	**$12,000,000**
Established appropriations for the 2001 biennium	**11,508,788**
Amount available for use	**$491,212**

FEMA Fire Suppression Funding

The final source of authority is the FEMA fire suppression grant. As Table 4 shows, the fires in Montana that qualified under FEMA declarations have been estimated to cost over $96 million. The state may see these costs fluctuate as agencies gather more information about the costs and the fire season draws to a close. Of the total amount, $58.7 million are the estimated costs that other agencies such as the BLM or the Forest Service will pay. The remaining amount of FEMA eligible fires will cost Montana an estimated $35 million. As of the writing of this report, FEMA had advanced about $18 million for immediate cash flow needs.

Table 4 State of Montana Cost of FEMA Fires 2000 Fire Season			
In Millions			
FEMA Costs -- Montana Portion			
FEMA Declaration Fires (eligible costs)	$35.0		
FEMA Declaration Fires (ineligibe costs)	2.5		
Total MT Portion of FEMA Declaration Fires		$37.5	
Other Agency Costs			
Forest Service & BLM		58.7	
Total Cost of FEMA Fires			$96.2

How is the Reimbursement Determined?

As stated earlier, fire suppression funding is normally provided at 70 percent with a 30 percent state cost share. Because the fire situation this year was so severe, FEMA representatives waived the normal floor costs and annual expenditure requirements. Thus, they decided to reimburse the State of Montana for 100 percent of its qualified expenses. If the state's share had remained at 30 percent, the state would have been liable for an additional estimated $10.5 million in fire costs.

In addition to providing a 100 percent reimbursement of qualified expenses, the state is eligible for an advance of 50 percent of qualified FEMA costs. As documentation improves, the state can qualify for advances in excess of 50 percent. DNRC has indicated that they are in the process of making necessary improvements in an effort to secure a higher level of advance from FEMA. Of the $35.0 million of eligible FEMA costs, the State of Montana qualifies for an estimated advance of just over $18 million. So far, the State of Montana has requested and received just over $18 million in advances.

DNRC CASH FLOW

Without federal assistance, the State of Montana, DNRC in particular, would be in a very poor position. In a typical fire season, the department estimates that about 60 percent of their fire costs can be deferred until after the fire season. The main reason for this is that local vendors and payroll expenses must be met in the short term. In contrast, the bill from the Forest Service is usually put off until after the fire season. Since the agency needs about 40 percent of total estimated costs over a 90-day period, the advance on the FEMA fire suppression money has helped with DNRC's cash flow. However, as Table 5 indicates, DNRC's cash flow is still problematic.

Table 5
Department of Natural Resources and Conservation
Cash Need -- 90 day period
Based upon a 55% deferral

In Millions

Total Cost of Fires		$107.9		
Less:				
Other Agency Costs (Forest Service & BLM	($58.7)			
FEMA Declaration Fires (ineligible costs)	(2.5)			
Estimated Pre/Post-FEMA Costs and FY 2000 supplemental	(11.7)			
Total Reductions		(72.9)		
State FEMA Eligible Costs			$35.0	
FEMA Advance -- Based upon 50% of State eligible Costs				$17.5
FEMA Declaration Fires (eligible costs) (Less California $2.1)	$32.9			
FEMA Declaration Fires (ineligible costs)	2.5			
DNRC's Estimated Pre/Post-FEMA Costs	11.7			
Total State Fire Costs before deferral		$47.1		
Bills Deferred Until After the Session -- 55%		(25.9)		
Estimated Cash Need Before California $2.1 Million Request			21.2	
Add: State of California Request for $2.1 million			2.1	
Total Estimated 90 Day Cash Need				23.3
Additional Funding Needed After FEMA Advance				($5.8)

FEMA ADVANCE NEEDED TO BREAK EVEN ON CASH NEED

Total Estimated 90 Day Cash Need	$23.3
Divided By:	
State FEMA Eligible Costs	35.0
Percentage of FEMA Advance Needed to Break Even on 90 day Cash Need	**67%**

First, the U.S. Forest Service is using a new computer program to pay bills this season. Unfortunately, they are experiencing difficulties with invoice processing and bill payments. Consequently, the State of Montana is paying some of the bills that they would normally pay. Because of this, DNRC has indicated that only 55 percent of their bills can be deferred. Thus, Montana needs to use more cash earlier in the fiscal year.

Second, as was stated earlier, the Forest Service acts as a “clearing house” for fire suppression bills among fire suppression agencies. Rather than being part of the normal process, the State of California has requested payment up front for its part in our fire suppression effort. Consequently, $2.1 million that would normally be deferred for some time into the future is now due to the State of California.

Because of these conditions, DNRC will need an additional authority to meet estimated cash requirements over the next 90 days. To meet this need, the department would need a FEMA advance of at least 67 percent of their estimated eligible FEMA costs. As was stated earlier, the department is working on improved documentation to secure advances of up to 100 percent of qualified expenses.

SUPPLEMENTAL – 2001 LEGISLATURE

Although DNRC is receiving financial assistance from the Governor's emergency fund and FEMA fire suppression money, there are expenditures that do not qualify for these funding sources. For example, pre-FEMA declaration fires and post-FEMA assistance fires will have bills associated with them that will have to be paid from Forestry Division's general fund authority. In addition, any ineligible costs associated with FEMA fires will have to be paid with the Forestry Division's current authority. These facts, coupled with the fact that DNRC already used the majority of its 2001 Forestry Division general fund appropriation for their fiscal year 2000 supplemental, mean that DNRC will need a supplemental appropriation during the 2001 legislative session.

When a state receives fire suppression funding from FEMA, advances are given to meet immediate financial needs with the remainder of the fire suppression grant following after the fire season is over and bills are reviewed. However, in a difficult and complex fire season, reimbursement delays can occur. As stated, DNRC has suggested that as much as 25 percent of FEMA reimbursements might be delayed until fiscal 2002. Thus, as the following table indicates, the supplemental appropriation that DNRC will request during the 2001 legislative session could range from just over $10 million to nearly $19 million. When reading this table, assume that all cost that would be charged to the Governor's emergency appropriation are expended from the statutory appropriation. If the decision is made to maintain a large appropriation balance in the event of emergencies later in the biennium, these costs (estimated at $4 million and including FEMA ineligible costs incurred by the Department of Military Affairs and costs of other state agencies) would also be added to the supplemental bill.

Table 6
Department of Natural Resources and Conservation
Fiscal 2001 General Fund Supplemental Estimate

Wildfire Cost Estimates	**Supplemental Estimate Based Upon Timely Payment by FEMA**		**Supplemental Estimate Based Upon Delayed Payment by FEMA**	
DNRC Operations Cost	$3,000,000		$3,000,000	
Payment to US Forest Service (includes BLM)	2,000,000		2,000,000	
Recoverable Agency Support Costs	1,000,000		1,000,000	
Unfunded FEMA Cost Due To Delays in Payment	0		8,750,000	
Spring Fires	$500,000		$500,000	
Total Estimated Wildfire Costs		$6,500,000		$15,250,000
Other				
Less: Budgeted Personnel Costs	($500,000)		($500,000)	
First FY00 Supplemental Request	4,048,986		4,048,986	
Total Other		$3,548,986		$3,548,986
Total Estimated DNRC Supplemental Request		$10,048,986		$18,798,986
Other State Agency Costs		$100,000		$100,000
Additional Fire Costs Assumed in Emergency Appropriation		4,000,000		4,000,000
Total Impact to General Fund after Additional Costs		$14,148,986		$22,898,986

Because the state's fire season is still a going concern, it is a bit premature to pick a single number for a supplemental appropriation during the 2001 session. Timing of FEMA reimbursements, an accurate accounting of fire invoices (many of which are yet to be gathered from fire camps), and new fire incidents are some of the factors that can affect the amount the fire supplemental.

If FEMA reimbursements are not delayed, DNRC may incur around $3 million in operations costs. The department may owe the Forest Service $2 million and will pay about $1 million assisting other federal and state agencies fighting their fires. Further, the department estimates that spring fires could total $.5 million. Finally, DNRC must add the fiscal 2000 supplemental of just over $4 million to and subtract budgeted personnel costs of about $.5 million. This brings DNRC's rough estimate of the total supplemental appropriation to just over $10 million.

In contrast, if FEMA reimbursements are delayed beyond fiscal 2001, DNRC will have to pay for as much as 25 percent of their FEMA qualified expenses from operations. This would amount to an additional $8.75 million. Because they do not have that much authority, that would translate into an increased supplemental appropriation in the 2001 legislative session.

NET COST

Although DNRC could be facing a rather large supplemental, the net cost of the fires must be considered. For example, with fires caused by negligence or arson DNRC can potentially collect the entire cost of suppression. Even though it is not likely that the entire cost of suppression would be collected, any money collected would be deposited in the general fund. In addition, when the state collects money from the fire suppression bill DNRC sends to other agencies for agency support, that money will be deposited into the general fund. Table 7 shows the net cost to the general fund of an appropriation that is given under ideal conditions of prompt FEMA fire suppression reimbursement.

Table 7 DNRC Supplemental Appropriation NET COST ESTIMATE		
Supplemental Estimate Based Upon Timely Payment by FEMA		
Estimated Supplemental Appropriation		$10,048,986
Emergency Appropriation		4,000,000
Other Agency Costs		100,000
Arson and Negligence	($500,000)	
Recoverable State Costs	(1,000,000)	
Total to be returned to General Fund		(1,500,000)
Net Cost to General Fund		$12,648,986

Table 7 estimates that with a supplemental appropriation of just over $10 million, emergency spending of $4.0 million, $0.1 million in other state agency costs, and $1.5 million being returned to the general fund, the net cost to the general fund would be just over $12.6 million. Sources include collections from negligence and arson cases and billable state costs. Table 8 shows the net cost of fires with a delay in fire suppression reimbursements by FEMA.

Table 8 DNRC Supplemental Appropriation NET COST ESTIMATE		
Supplemental Estimate Based Upon Delayed Payment by FEMA		
Estimated Supplemental Appropriation		$18,798,986
Emergency Appropriation		4,000,000
Other Agency Costs		100,000
Arson and Negligence	($500,000)	
Recoverable State Costs	(1,000,000)	
Remaining FEMA Payment	(8,750,000)	
Total to be returned to General Fund		(10,250,000)
Net Cost to General Fund		$12,648,986

Similarly, Table 8 indicates a net cost to the general fund of just over $12.6 million. The net cost of the supplemental appropriation to the general fund remains the same in either scenario. However, because of the FEMA delay, the general fund may not show a net cost benefit until fiscal 2002.

CONCERN – FIRE FUNDING

As stated, the legislature does not budget money for fire suppression costs. Instead, fire costs are paid temporarily from the Forestry Division's general fund appropriation and through the unbudgeted emergency appropriation if an emergency or disaster is declared.

In this biennium, the legislature appropriated $5,556,982 in fiscal 2000 and $5,559,698 in fiscal 2001 to the Forestry Division. In May of 2000, DNRC submitted a supplemental appropriation request for $3,753,953. That supplemental request was ultimately approved, leaving $1,985,745 to operate the Forestry Division in fiscal 2001. An effort to more accurately estimate spring fire costs resulted in a second supplemental request in July 2000. The second request of $475,000 was submitted and ultimately approved bringing the available general fund authority in the Forestry Division in fiscal 2001 to $1,510,000 from which the Forestry Division must operate for the entire fiscal year and pay any additional state fire suppression costs.

Although the legislature chooses not to budget general fund authority specifically for wildland fire suppression costs outside of the emergency process, it has demonstrated its commitment to pay for all fire suppression costs through the supplemental appropriation process. While this process functions, it is problematic in several ways.

For example, DNRC is faced with the burden of trying to find sources of authority to fund wildland fire suppression costs. If they are in the first year of the biennium, and the state does not have a fire season that is severe, the process works well. The supplemental appropriation for the first year of the biennium will probably not be excessive and the supplemental appropriation bill in the next legislative session will make the agency whole again before funding becomes problematic. However, years like this year produce more of a worst case scenario.

With the general fund appropriation in the Forestry Division showing a balance of just over $1.5 million, the agency is left trying to find authority in other parts of the agency to cover expenses of the fire season. According to DNRC correspondence, fire suppression costs in 1994 and 1996 were so burdensome that it was questionable whether or not employees would be paid. Similar to this year, advances from FEMA helped DNRC out of a particularly difficult position.

As of October 2, 2000, DNRC has paid just over $20.8 million in fire suppression costs. Fortunately, the Governor's emergency fund, FEMA, and internal authority shuffling are available to help get DNRC through to the regular legislative session, where they can receive supplemental appropriation authority. To get by, DNRC is looking to utilize authority from within the agency – authority given to operate other parts of the agency. Also, if needed, DNRC will attempt to borrow cash from within the department and from the Department of Environmental Quality until the 2001 legislative session, and add the additional authority through the budget amendment process.

Another problem with Montana's fire suppression funding policy affects the legislature. Lack of spending authority potentially puts the legislature in the position of calling a special session if internal authority, emergency funding, FEMA, and borrowing are not sufficient to cover suppression costs.

The current policy of funding fire suppression costs is sufficient in most years. However, the question is to examine whether or not it functions efficiently. It has been the legislature's policy to pay fire suppression costs through the supplemental appropriation process. If the legislature's desire is to fund suppression costs outside the supplemental appropriation process, there are a number of alternatives that will produce the result of funding fire suppression costs while minimizing the problems associated with the current method. The Legislative Finance Committee may want to consider the following options when examining how fire suppression costs are funded in Montana:

1) **HB2 Appropriation.** The legislature could appropriate an amount for fire suppression costs through a HB2 appropriation. Although the legislature could appropriate an amount for each year in the biennium based upon past fire season costs, a biennial appropriation would provide agency flexibility in particularly difficult fire seasons.

One method for determining a "reasonable" amount of appropriation is to use a seven year moving average with the high and low years removed from the calculation. The following table shows a moving average using this methodology.

Table 9
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Five Year Average Supplemental Fire Suppression Cost
High and Low Years Removed -- 1994 and 1995

Fiscal Year End	SBAS 712 Costs	SBAS 713 Costs	Total Cost	Budgeted Cost	Supplemental Needed	7-year Rank
1999	$ 7,060,031	$1,519,373	$8,579,404	($226,510)	$8,352,894	2
1998	621,011	104,846	725,857	(48,041)	677,816	6
1997	5,035,825	1,496,795	6,532,620	(309,195)	6,223,425	3
1996	839,358	474,343	1,313,701	(150,771)	1,162,930	5
1993	1,550,775	494,739	2,045,514	(132,906)	1,912,608	4
TOTAL	$ 15,107,000	$4,090,096	$19,197,096	($867,423)	$18,329,673	

5 - YEAR AVERAGE SUPPLEMENTAL NEEDED	**$ 3,665,935**

Using this method, the average cost is just over $3.6 million per year. In this case, the HB2 fire suppression appropriation would be above the normal Forestry Division general fund appropriation. Because of the uncertain nature of fires, costs above the appropriation could be funded through the supplemental appropriation process. Like other HB2 appropriations, the legislature could restrict spending to fire suppression costs only.

2) **Portion of Emergency Fund.** The legislature could amend the $12 million biennial statutory appropriation available for emergencies to allow DNRC to use a portion specifically for fire suppression costs. For example, rather than making $12 million available for any emergency or disaster declared by the Governor, the statute could be amended to provide an $8 million biennial appropriation for general emergencies and a $4 million biennial appropriation available specifically for fire suppression. If desired, and only under certain pre-determined conditions, the $4 million could be made available without a Governor's declaration of disaster or emergency. However, restrictions could be used to limit spending on this funding. This would give DNRC some flexibility to fund particularly difficult fire seasons. Suppression costs above the additional funding could be secured through the supplemental appropriation process.

3) **Montana Wildfire Mobilization Fund.** The legislature could establish and fund a "Montana Wildfire Mobilization Fund." The legislature could develop a trust that, once fully funded, the proceeds from which could be used to fund fire suppression costs. Funding could be provided from a number of sources. Some examples might include: 1) charging a fire suppression fee to entities and individuals utilizing public land to derive income; 2) sharp increases in suppression charges to those who choose to build homes in wildland/urban interface areas; 3) taxes imposed on all taxpayers in Montana; 4) a percentage of total insurance premiums for all homeowners policies written for Montana real property; 5) or any combination of these.

APPENDIX -- 1

GOVERNOR'S DECLARATION

This fire season involved many facets of state government. Many legislators were involved in the effort including several that toured fire camps. In addition, the Departments of Natural Resources and Conservation, Military Affairs, Fish, Wildlife, and Parks, Public Health and Human Services, Justice, Environmental Quality, and Labor and Industry were among the agencies involved in the some aspect of the effort. Early on, the Governor became involved and declared a state of emergency in Zone #3 during the Canyon Ferry Complex fire. That was followed by statewide declaration of emergency and disaster. The following provides a timeline of the declaration process and a description of disasters and emergencies:

GOVERNOR DECLARES A STATE OF EMERGENCY IN FIRE ZONE #3 – EXECUTIVE ORDER #17, JULY 24, 2000

Effective July 23, 2000, this declaration covered Glacier, Toole, Pondera, Teton, Lewis & Clark, Cascade, Judith Basin, Meagher, Broadwater, Jefferson, Gallatin, and Park Counties.

Governor declares a state of emergency for the State of Montana– Executive Order #18, July 28, 2000

Effective July 27, 2000

Governor declares a state of disaster for the State of Montana– Executive Order #20, August 16, 2000

Effective August 16, 2000

PRESIDENT CLINTON DECLARES THE STATE OF MONTANA A DISASTER AREA – AUGUST 30, 2000

An ***emergency*** means the imminent threat of a disaster causing immediate peril to life or property that timely action can avert or minimize. A ***disaster*** is the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including tornadoes, windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides, mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption of state services, or accidents involving radiation byproducts or other hazardous materials.

- (1) A state of ***emergency*** may be declared by the governor when he or she determines that an emergency as defined in 10-3-103 exists. . After official proclamation, an emergency may not continue for longer than 20 days unless continuing condition of the disaster exist. Continued existence is determined by declaration of an emergency by the President of the United States or by declaration of the legislature by joint resolution of continuing condition of the state of emergency.

- (1) A state of ***disaster*** may be declared by the governor when he or she determines that a disaster has occurred as defined in 10-3-103 exists. After official proclamation, a disaster may not continue for longer than 30 days unless continuing condition of the disaster exist. Continued existence is determined by declaration of a major disaster by the President of the United States or by declaration of the legislature by joint resolution of continuing condition of the state of disaster.

- **10-3-312 MCA**

Maximum expenditure by governor -- appropriation. (1) Whenever an emergency or disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed $12 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. (2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery. (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed $500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178.

As 10-3-312 points out, a declaration of disaster or emergency by the Governor provides access to the $12 million biennial appropriation for emergencies. Further, the declaration of a disaster or emergency is significant because of the level of responsibility and authority delegated to the Governor. The authority delegated allows, under certain circumstances, to suspend the provision of regulatory statutes and administrative rules prescribing the conduct of state government, to direct evacuations, and to control access to emergency areas. The authority delegated by the legislature allows the state the flexibility to respond to emergencies in a timely and effective manner.

In addition to the Governor's declarations of emergency and disaster, the State of Montana received a Presidential declaration of disaster. In order for the President of the United States to declare a major disaster, a number of conditions must exist. First, the state must have a situation that is "…of such severity and magnitude that effective response is beyond the capabilities of the state and the affected local governments." In order for the Governor to ask the President to declare the state a disaster, the Governor must furnish information that describes the extent and nature of state resources that have been exhausted in an attempt to alleviate a disaster. The Governor then must also certify that state and local governments will assume all non-federal costs.

Further, the purpose of a disaster is to supplement the efforts and available resources of states, local governments, and disaster relief organizations. Also, it is not the purpose of disaster relief to replace or supersede the FEMA fire suppression efforts and grants. Once the President declares a disaster, a myriad of assistance becomes available for victims. For example, public assistance might include replacement and repair of bridges, roads, buildings or restoration of parks that have succumbed to fires. In addition, hazard mitigation grants are available for eligible projects within the disaster area. Among individual assistance programs available are housing, unemployment, legal service, and crisis counseling. The President signed the disaster declaration on August 30, 2000 -- one day after the Governor's request.

APPENDIX -- 2

The FEMA declaration zones and their starting and ending periods are as follows:

- **Northwest Zone Complex #1**

  Lincoln, Flathead, Sanders, and Lake counties

  Starting Date: August 12, 2000, 0600 hours
  Ending Date: September 4, 2000, 2400 hours

- **Southwestern Zone Complex #2**

  Mineral, Powell, Missoula, Ravalli, Granite, Deer Lodge, and Silverbow counties

  Starting Date: July 31, 2000, 0600 hours
  Ending Date: September 11, 2000, 02400 hours

- **Central Zone Complex #3B**

  Lewis and Clark, Jefferson, Broadwater, and Meagher counties

  Starting Date: July 23, 2000, 0600 hours
  Ending Date: September 11, 2000, 02400 hours

- **Central Zone Complex #3C**

  Beaverhead and Madison counties

  Starting Date: August 7, 2000, 0600 hours
  Ending Date: September 4, 2000, 2400 hours

- **Southcentral Zone Complex #4**

  Gallatin and Park counties

  Starting Date: August 16, 2000, 0600 hours
  Ending Date: September 4, 2000, 2400 hours

- **Willie Fire**

  Single fire declaration located in Carbon County

  Starting Date: August 27, 2000, 0600 hours
  Ending Date: September 3, 2000, 2400 hours